

## **§ 57.320**

class, quality, quantity, or condition of product which was inspected may request an appeal inspection by filing such request with the Regional Director in the region where the product is located or with the Chief of the Grading Branch.

[63 FR 69971, Dec. 17, 1998, as amended at 69 FR 57167, Sept. 24, 2004]

### **§ 57.320 How to file an appeal.**

The request for an appeal inspection may be made orally or in writing. If made orally, written confirmation may be required. The applicant shall clearly state the identity of the product, the decision that is questioned, and the reason(s) for requesting the appeal service.

[69 FR 57167, Sept. 24, 2004]

### **§ 57.330 When an application for an appeal inspection may be refused.**

When it appears to the official with whom an appeal request is filed that the reasons given in the request are frivolous or not substantial, or that the condition of the product has undergone a material change since the original inspection, or that the original lot has changed in some manner, or the Act or the regulations in this part have not been complied with, the applicant's request for the appeal inspection may be refused. In such case, the applicant shall be promptly notified of the reason(s) for such refusal.

[63 FR 69968, Dec. 17, 1998, as amended at 69 FR 57167, Sept. 24, 2004]

### **§ 57.340 Who shall perform the appeal.**

The assignment of the inspector(s) who will make the appeal inspection under § 57.310 shall be made by the Regional Director or the Chief of the Grading Branch.

[63 FR 69968, 69971, Dec. 17, 1998, as amended at 69 FR 57167, Sept. 24, 2004]

### **§ 57.350 Procedures for selecting appeal samples.**

(a) Products shall not have been moved from the place where the inspection being appealed was performed and must have been maintained under adequate refrigeration when applicable.

(b) The appeal sample shall consist of product taken from the original sample

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containers plus an equal number of containers selected at random. When the original samples are not available or have been altered, such as removing the undergrades, the sample size shall be double the number of samples required in 7 CFR 56.4.

[63 FR 69968, 69971, Dec. 17, 1998, as amended at 69 FR 57167, Sept. 24, 2004]

### **§ 57.360 Appeal inspection certificates.**

Immediately after an appeal inspection is completed, an appeal certificate shall be issued to show that the original inspection was sustained or was not sustained.

[63 FR 69968, Dec. 17, 1998, as amended at 69 FR 57167, Sept. 24, 2004]

### **§ 57.370 Cost of appeals.**

The costs of an appeal inspection shall be borne by the appellant on a fee basis at rates set forth in 7 CFR 56.46, plus any travel and additional expenses. If the appeal inspection or review of an inspector's decision discloses that a material error was made in the original determination, no fee or expense will be charged.

[69 FR 57157, Sept. 24, 2004]

## **RETENTION**

### **§ 57.426 Retention.**

Retention tags or other devices and methods as may be approved by the Administrator shall be used for the identification and control of products which are not in compliance with the regulations or are held for further examination. No product, shall be released for use until it has been made acceptable. Such identification shall not be removed by anyone other than an inspector.

[63 FR 69968, Dec. 17, 1998, as amended at 69 FR 57168, Sept. 24, 2004]

## **REGISTRATION OF SHELL EGG HANDLERS**

### **§ 57.690 Person required to register.**

Egg handlers, except for producer-packers with an annual egg production from a flock of 3,000 hens or less, who grade and pack eggs for the ultimate consumer, and hatcheries, are required to register with the Department by furnishing their name, place of business,

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and such other information requested on the registration form available from the Department. Completed forms shall be sent to the addressee indicated on the form. Persons above who are establishing a business will be required to register before they start operations.

[69 FR 57168, Sept. 24, 2004]

### INSPECTION AND DISPOSITION OF RESTRICTED EGGS

#### **§ 57.700 Prohibition on disposition of restricted eggs.**

(a) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation in any business in commerce any restricted eggs, except as authorized in §§ 57.100 and 57.720.

(b) No egg handler shall possess any restricted eggs, except as authorized in §§ 57.100 and 57.720.

(c) No egg handler shall use any restricted eggs in the preparation of human food, except as provided in §§ 57.100 and 57.720.

[36 FR 9814, May 28, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, and at 63 FR 69970, Dec. 17, 1998]

#### **§ 57.720 Disposition of restricted eggs.**

(a) Eggs classified as checks, dirties, incubator rejects, inedibles, leakers, or loss shall be disposed of by one of the following methods at point and time of segregation:

(1) By shipping directly or indirectly to an official egg products processing plant for segregation and processing, if a check or dirty and if labeled in accordance with § 57.800. Inedible and loss eggs shall not be intermingled in the same container with checks and dirties.

(2) By destruction and identification in a manner approved by the Administrator.

(i) Loss and inedible eggs shall be crushed and shall be placed in a container containing a sufficient amount of approved denaturant or decharacterant, such as FD&C brown, blue, black, or green colors, meat and fish by-products, grain and milling by-products, or any other substance, as approved by the Administrator, that

will accomplish the purposes of this section. The approved denaturant or decharacterant substance shall be dispersed through the product in amounts sufficient to give the product a distinctive appearance or odor.

(ii) The denatured and decharacterized product shall be labeled as required in §§ 57.840 and 57.860.

(3) By processing for industrial use or for animal food. Such product shall be denatured or decharacterized in accordance with § 57.720(a)(2) and identified as provided in §§ 57.840 and 57.860, or handled in accordance with other procedures approved by the Administrator. Notwithstanding the foregoing, product which was produced under official supervision and transported for industrial use or animal food need not be denatured or decharacterized if it is shipped under Government seal and received by an inspector or grader as defined in this part.

(4) By coloring the shells of loss and inedible eggs with a sufficient amount of FD&C color to give a distinct appearance, or applying a substance that will penetrate the shell and decharacterize the egg meat. Except that, lots of eggs containing significant percentages of blood spots or meat spots, but no other types of loss or inedible eggs may be shipped directly to official egg products processing plants, provided they are conspicuously labeled with the name and address of the shipper and the wording "Spots—For Processing Only In Official Egg Products Plants."

(b) Eggs which are packed for the ultimate consumer and which have been found to exceed the tolerance for restricted eggs permitted in the official standards for U.S. Consumer Grade B shall be identified as required in §§ 57.800 and 57.860 and shall be shipped directly or indirectly:

(1) To an official egg products processing plant for proper segregation and processing; or

(2) Be reggraded so that they comply with the official standards; or

(3) Used as other than human food.